

***United States Court of Appeals
for the Second Circuit***



APPENDIX

75-1040

Docket No. 75-1040

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X

UNITED STATES OF AMERICA, :

:

- against - : INDICTMENT

: Index No. 74 Cr. 764

CHARLES HODGES, DANIEL JORDANO :
ANDREW JORDAN, a/k/a Andrew Jordano, :
and ANTHONY MUFFUCCI, :

Defendants-Appellants. :
-----X

A P P E N D I X

(Docket Sheets)

(Indictment)



RICHARD S. SCANLAN
ATTORNEY AT LAW
THE BAR BUILDING
199 MAIN STREET
WHITE PLAINS, N. Y. 10601

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PAGINATION AS IN ORIGINAL COPY

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FOR THE SECOND CIRCUIT

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(Docket Sheets)

(Indictment)

ONLY COPY AVAILABLE

D. C. Form No. 100

CRIMINAL DOCKET

JIMMY CARTER

74 CRIM. 764

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U. S.:
PS.	Robert B. Hemley, AUSA.
	264-6431
1. CHARLES HODGES	
2. DANIEL JORDANO 1/24/75	
3. ANDREW JORDAN, a/k/a Andrew Jordano, 1/25/75	
4. ANTHONY MUFFUCCI - 1/28/75	
5. RONALD CORBIA A/C 11-15-74	For Defendant:

ABSTRACT OF COSTS	AMOUNT	CASH RECEIVED AND DISBURSED			
		DATE	NAME	RECEIVED	DISBURSED
(01) Fine,		1/25/75	Writ		
Clerk,		1/25/75	Writ		
Marshal,					
Attorney,					
Prosecutor's Court, 18					
Witnesses 371, 2113(a)(b), 656					
Consp. to rob bank (Ct. 1)					
Robbery of ins. bank (Cts. 2&3)					
Bank embez. (Ct. 4)					
(Four Counts)					

DATE	PROCEEDINGS
8-1-74	Filed indictment.
3-5-74	Deft. Charles Hodges produced on a writ, Writ satisfied (No Atty.) Court directs a plea of Not Guilty, 10 days for motions. B/W issued as a detainee. Deft. Fingerprinted and Photographed.
	Deft. Daniel Jordano present, (No Atty.) Court directs a plea of Not Guilty B/W vacated. Bail fixed by court at \$5,000 Personal Recognizance Bond.
	Deft. Andrew Jordano present, (No. Atty.) Court directs a plea of Not Guilty. Bail previously fixed by Magistrate at \$5,000 Personal Recognizance Bond co-signed by wife.
	Deft. Anthony Muffucci present, (No Atty.) Court directs a plea of Not Guilty. Bail previously fixed by the Magistrate at \$5,000 Personal Recognizance Bond.

DATE	PROCEEDINGS	CLERK'S FEES	
		PLAINTIFF	DEFENDANT
	Continued from following pg.		
	Deft. Ronald Corbia present, (No Atty.) Court directs a plea of Not Guilty. Bail fixed by court at \$5,000 Personal Recognizance Bond. Case assigned to Carter, J. as related to 74-cr-741. Stewart, J.		
8-7-74	Filed bench Warrant Issued for Deft. HODGES.		
8-5-74	JORDANO - Filed A.R.S. in the sum of \$5,000.00 unsecured. - Clerk.		
8-3-74	Filed Government's notice of readiness for trial.		
8-12-74	Case marked off Cal. - Owen, J. (in part E)		
8-21-74	MUFFUCCI - Filed defendant's motion for a bill of particulars.		
10-2-74	CALVIN HILL - Filed documents received from Mag. Raby -- Docket Entry Sheet; Indict. Warrant Disposition Sheet.		
10-15-74	MUFFUCCI - Filed Notice of Motion for deft. returnable at a date fixed by the Court, for dismissal, on Cts 2 & 4 etc.; granting pre trial hearing etc; further relief etc.		
10-15-74	CHARLES HODGES (atty present) Withdraws his plea of Not Guilty and Pleads GUILTY to Count 3 only. Pre-sentence report ordered. Sentence adjourned to 11/26/74 at 9:30 A.M. Deft. continued on bail - CARTER, J.		
11-1-74	Filed Govt's Memorandum of Law		
11-1-74	Filed Govt's Memorandum of Law		
11-1-74	Filed memo-endorsed on motion dtd 10/15/74 -- Motion to dismiss Ct. 2 & 4 and Paragraphs 2 and 4 granted - Count 1 is denied. Motion for pretrial identification hearing is granted - So ordered - CARTER, J.		
11-4-74	Identification Hearing begun as to all defendants and (attys. presen) except Charles Hodges. Hearing concluded. Motions denied - CARTER, J.		
11-4-74	Trial begun DANIEL JORDANO (atty. James Benard present) ANDREW JORDAN (atty. Golub present) ANTHONY MUFFUCCI (atty. Edward Casthalter present) RONALD CORBIA (atty. Albert Gaynor present) with a jury.		

U.S. Rev. Civil Docket Continuation

PROCEEDINGS

Date Order or
Judgment Noted

DATE	PROCEEDINGS	Date Order or Judgment Noted
11-6-74	Trial continued	
11-7-74	Trial continued	
11-8-74	Trial continued	
11-12-74	Trial continued	
Nov.13-74	Trial continued	
Nov.14-74	Trial continued	
Nov.15-74	Trial continued, Jury deliberations begun at 11:20 A.M. Jury returns with a partial verdict at 6:20 P.M. Deft. GORBIA found NOT GUILTY on all Counts, DEFTS. JORDANO, JORDON AND MUFFUCCI found NOT GUILTY on Ct. 4 Jury resumes deliberations at 6:30 P.M. No verdict having been reached at 11PM Jury ordered to return at 10:00 A.M.	
11-16-74	Trial continued. Jury resumed deliberations at 10:00 AM. Court declares a mistrial as to defts. DANIEL JORDANO; ANDREW JORDAN; ANTHONY MUFFUCCI on Counts 1,2, and 3 CARTER, J.	
1-29-74	Filed Affidavit for Writ of Habeas Corpus ad Testificandum Issue	
12-5-74	Filed Transcript of record of proceedings, dated 10-6-74	
1-9-74	Filed Affidavit for Writ of Habeas Corpus ad Testificandum	
1-9-74	Trial begun DANIEL JORDANO (atty. LaRousse present) ANDREW JORDAN (atty. Golub present) ANTHONY MUFFUCCI (atty. R. Scanlon present) with a jury.	
1-10-74	Trial cont'd.	
1-11-74	Trial cont'd.	
1-12-74	Trial cont'd.	
1-13-74	Trial cont'd.	
1-14-74	Trial cont'd. and concluded. Jury Verdict: DANIEL JORDANO - GUILTY Counts 1,2,3 -- ANTHONY MUFFUCCI - GUILTY Cts. 1,2,3, ANDREW JORDAN - GUILTY Counts 1,2,3. Pre-sentence report ordered. Defts. continued on present bail of \$5,000. Personal Recognizance Bond as previously fixed by the Magistrate. As to deft. ANDREW JORDAN AND ANTHONY MUFFUCCI their bonds are to be co-signed by their wives. Sentences are adjourned to 1/28/74 at 9:30 A.M. Deft. DANIEL JORDANO'S bond to be co-signed by MRS. MUFFUCCI	
1-16-74	JORDANO - Filed P/R/B w/o security sum of \$5,000.00	
1-17-74	Filed Transcript of record of proceedings, dated 1-16-74	
1-17-74	MUFFUCCI - Filed CJA 20 Appointing Edward Canthaler, 233 Broadway, N.Y. counsel, original mailed to AOWash.D.C. for payment - CARTER, J.	
1-17-74	MUFFUCCI - CJA 20 - Copy 5, approving payment of counsel - CARTER, J.	
1-19-74	Writ Satisfied - MATTHER, J.	
1-26-74	Filed Transcript of record of proceedings, dated Nov. 4, 6, 7, 8, 1974	
1-26-74	Filed Transcript of record of proceedings, dated Nov. 12, 13, 14, 15, 1974	

DATE	PROCEEDINGS	Date Order Judgment N
Dec. 26-74	ANTHONY MUFFUCCI ---Filed personal recognizance bond without security in the amt. of \$5,000.	
Dec. 27-74	Filed govts. affdt. for w/h/c to produce Kenneth Williams as a witness. Writ issued, Tyler, J. Writ satisfied on 12/17/74, Carter, J.	
01-14-75	FILED OPINION # 41729---The issue to which the court on its own motion addressed itself, is whether Andrew Jordan and Daniel Jordano misrepresented their financial conditions in obtaining court appointed counsel under the Criminal Justice Act. An evidentiary hearing to determine that question was held on Dec. 27, 1974. Accordingly, as to both parties, I conclude that there is nothing in the record to warrant changing the initial determination of the right of either deft. to court appointed counsel under the CJA Act. So ordered, Carter, J. m/n	
01-28-75	ANTHONY MUFUCCI--FILED JUDGMENT(atty. Richard Scanlan present)--- as to counts 1, 2 & 3(after being found guilty by a verdict)--the deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of counts 1, 2 and 3 to run concurrently with each other. Bail pending appeal is fixed \$7,500 cash or surety bond. Deft. advised of his rights to appeal. Carter, J. (copies issued)	
01-28-75	ANDREW JORDANO--FILED JUDGMENT(atty. Benjamin Golub present)-- as to counts 1, 2 & 3(after being found guilty by a verdict)-- the deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of FIVE(5) YEARS on each of counts 1, 2 and 3, to run concurrently with each other. Bail pending appeal is fixed at \$7,500 cash or surety bond. Deft. advised of his rights to appeal. Carter, J. (copies issued)	
01-28-75	DANIEL JORDANO--FILED JUDGMENT(atty. James LaRossa, present)--the deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of counts 1, 2 and 3, to run concurrently with each other. Bail pending appeal is fixed in the sum of \$5,000, personal recognizance bond, unsecured. Deft. advised of his rights to appeal. Carter, J. (copies issued)	
01-30-75	Filed govts. memorandum of law re: testimony of Nancy Williams at the 2nd trial.	
01-30-75	RONALD CORBIA--Filed defts. requests to charge.	
01-30-75	Filed govts. memorandum of law re: admissibility of the hearsay statements of co-conspirators.	
01-30-75	Filed govts. requests to charge.	
01-28-75	ANDREW JORDAN aka ANDREW JORDANO--Filed defts. notice of appeal to the USCA from the final judgment dated January 28, 1975. (copies mailed to U.S. Attys. office and to deft. at 253 North Bdwy, Yonkers, NY)	

Case By 5)

D. C. 110 Rev. Civil Docket Continuation

D. C. 110 Rev. Civil Docket Continuation		PROCEEDINGS	Date Oral Judgment
DATE			
01-30-75	DANIEL JORDANO--Filed defts. notice of appeal to the USCA from the judgment entered on January 28, 1975. copies mailed to the U. S. Attys. Office and to deft's. home address at 2665 Grand Concourse, Bronx, N.Y.		
02-07-75	ANTHONY MUFFUCCI--Filed defts. notice of appeal to the USCA from the judgment of conviction entered on Jan. 28, 1975. (copies mailed to U.S. Attys. Office)		
02-06-75	CHARLES HODGES--(atty. and deft. present) (atty. Jessie Berman)--Sentence adj. to March 5, 1975 at 9:45am. Carter, J.		
2-19-75	Filed Manuscript dtd Dec 9-12-74		
2-19-75	Filed Manuscript dtd Dec, 13, 14, 74 and Jan 28, 75		

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
UNITED STATES OF AMERICA

:

-v-

:

INDICTMENT

CHARLES HODGES,
DANIEL JORDANO,
ANDREW JORDAN, a/k/a
Andres Jordano, and
ANTHONY MUFFUCCI,

:

S74 Cr. 764

:

:

Defendants.

:

-----x
COUNT ONE

The Grand Jury charges:

1. From on or about the 1st day of July, 1973, up to and including the date of the filing of this Indictment, in the Southern District of New York, CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, and ANTHONY MUFFUCCI, the defendants, together and with each other and with others to the Grand Jury known and unknown, did unlawfully, wilfully and knowingly combine, conspire, confederate and agree to commit a crime against the United States of America, to wit, to violate Sections 2113(a) and 2113(b) of Title 18, United States Code.

2. It was part of said conspiracy that the defendants unlawfully, wilfully and knowingly, by force, violence and intimidation, would take and cause to be taken from the person and presence of another, sums of money belonging to and in the care, custody, control, management and possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York (hereinafter referred to as "the bank"), a bank whose deposits were then and there insured by the Federal Deposit Insurance Corporation.

RBH:par
d-730

3. It was further part of said conspiracy that the defendants, unlawfully, wilfully and knowingly, with intent to steal and purloin, would take and carry away and cause to be taken and carried away sums of money belonging to and in the care, custody, control, management and possession of the bank.

Among the means whereby the defendants would and did carry out said conspiracy were the following:

a) Ronald Corbia would according to prearranged plan with the defendants, carry a sum of money from the National Bank of North America, along Yonkers Avenue in Yonkers, New York, towards his place of employment, the Yonkers Savings Bank.

b) At a designated location along the route, CHARLES HODGES, the defendant and another person known to the Grand Jury, would intercept Corbia, forcibly subdue any accompanying bank guards, and seize the money; Corbia would pretend to be a victim of the robbery.

c) The defendant CHARLES HODGES would thereafter deliver said proceeds to the defendant DANIEL JORDANO, who would, in turn, divide the proceeds among the other defendants.

OVERT ACTS

In furtherance of the said conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

1. On or about September 20, 1973, the defendants CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, and ANTHONY MUFFUCCI had a meeting in an apartment in Yonkers, New York, at which time they discussed the robbery plans.

2. On or about September 21, 1973, the defendants CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano and ANTHONY MUFFUCCI went to a diner on Yonkers Avenue in Yonkers, New York, and waited for a telephone call notifying them that Corbia had left the bank with the money.

3. On or about September 21, 1973, at Yonkers Avenue, Yonkers, New York, the defendant CHARLES HODGES took a bag containing approximately \$36,500 from Ronald Corbia.

4. On or about September 21, 1973, the defendant CHARLES HODGES placed the bag containing approximately \$36,500 which he took from Ronald Corbia in a 1973 blue Cadillac automobile with a white top.

5. On or about September 21, 1973, the defendants CHARLES HODGES and DANIEL JORDANO drove in a white Vega automobile to Fordham Road in the Bronx, New York, to give the defendant CHARLES HODGES his share of the money.

(Title 18, United States Code, Section 371.)

COUNT TWO

The Grand Jury further charges:

On or about the 21st day of September, 1973, in the Southern District of New York, CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, and ANTHONY MUFFUCCI, the defendants, unlawfully, wilfully and knowingly did, by force, violence and intimidation, take from the person and presence of another, approximately \$36,500 belonging to and in the care, custody, control, management and possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation.

(Title 18, United States Code, Section 2113(a)
and Section 2.)

COUNT THREE

The Grand Jury further charges:

On or about the 21st day of September, 1973, in the Southern District of New York, CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, and ANTHONY MUFFUCCI, the defendants, unlawfully, wilfully and knowingly, and with intent to steal and purloin, did take and carry away approximately \$36,500 belonging to and in the care, custody, control, management and possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation.

(Title 18, United States Code, Section 2113(b)
and Section 2.)

AFFIRMATION OF SERVICE

STATE OF NEW YORK)
 :ss.:
COUNTY OF WESTCHESTER)

RICHARD S. SCANLAN, respectfully states as follows:


1. I am an attorney at law duly admitted to practice before the Bar of the State of New York and before the Federal District Court for the Southern District of New York.

2. On March 26, 1975 I served a copy of the appendix and a copy of Appellant ANTHONY MUFFUCCI's brief upon

- a) ROBERT B. HEMLEY, Assistant United States Attorney, attorney for the Appellee herein, by personally delivering the same to his receptionist at the United States Courthouse - Foley Square, New York, New York
- b) JAMES LA ROSA, ESQ., attorney for DANIEL JORDANO, by personally delivering the same to his receptionist at 522 Fifth Avenue, New York, New York, and
- c) BENJAMIN J. GOLUB, ESQ., attorney for ANDREW JORDAN, by personally delivering the same to his receptionist at 10 East 40th Street, New York, New York.

3. This affirmation is made under the penalties of perjury and pursuant to C.P.L.R. Rule 2106.

Dated: White Plains, New York
March 26, 1975



RICHARD S. SCANLAN

STATE OF NEW YORK, COUNTY OF

ss.:

The undersigned, an attorney admitted to practice in the courts of New York State,

Check Applicable Box
☐ Certification
By Attorney
☐ Attorney's
Affirmation

certifies that the within
has been compared by the undersigned with the original and found to be a true and complete copy.

shows: deponent is

the attorney(s) of record for
in the within action; deponent has read the foregoing
and knows the contents thereof; the same is
true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief
and that as to those matters deponent believes it to be true. This verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

.....
The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF

ss.:

Check Applicable Box
☐ Individual
Verification
☐ Corporate
Verification

the
the foregoing
deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as
to those matters deponent believes it to be true.

the
a
foregoing
is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and
belief, and as to those matters deponent believes it to be true. This verification is made by deponent because
is a corporation and deponent is an officer thereof.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me on

19

.....
The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF

ss.:

is over 18 years of age and resides at

being duly sworn, deposes and says: deponent is not a party to the action,

Check Applicable Box
☐ Affidavit
of Service
By Mail

On 19 deponent served the within
upon
attorney(s) for in this action, at

the address designated by said attorney(s) for that purpose
by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in — a post office — official
depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Check Applicable Box

☐ Affidavit
of Personal
Service

On 19 at
deponent served the within upon

the
herein, by delivering a true copy thereof to h personally. Deponent knew the
person so served to be the person mentioned and described in said papers as the therein.

Sworn to before me on

19

.....
The name signed must be printed beneath

NOTICE OF ENTRY

Sir:- Please take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on 19

Dated,

Yours, etc.,

RICHARD S. SCANLAN

Attorney for

Office and Post Office Address

THE BAR BUILDING
199 MAIN STREET
WHITE PLAINS, N. Y. 10601

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:- Please take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19
at M.

Dated,

Yours, etc.,

RICHARD S. SCANLAN

Attorney for

Office and Post Office Address

THE BAR BUILDING
199 MAIN STREET
WHITE PLAINS, N. Y. 10601

To

Attorney(s) for

Index No.

Year 19

RICHARD S. SCANLAN

Attorney for

Office and Post Office Address, Telephone

THE BAR BUILDING
199 MAIN STREET
WHITE PLAINS, N. Y. 10601
(914) 949-2560

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for